

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Apr 03, 2025**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SCOTT W. HUMPHREYS,

Plaintiff,

v.

NO NAMED DEFENDANT,

Defendant.

No: 2:24-CV-00437-MKD

ORDER DENYING CONSTRUED  
MOTION FOR RECONSIDERATION

**ECF No. 9**

Before the Court is a construed Motion for Reconsideration filed by Plaintiff Scott W. Humphreys, an individual currently incarcerated at the Coyote Ridge Corrections Center. ECF No. 9. On March 11, 2025, the Court denied Plaintiff's request to proceed *in forma pauperis*, dismissed this action, and entered judgment without prejudice. ECF Nos. 7, 8. Plaintiff now appears to seek reconsideration of the judgment of dismissal, as he has filed a copy of the judgment with a variety of indecipherable assertions and notations included on the form. ECF No. 9 at 1.

1 A motion for reconsideration may be reviewed under either Federal Rule of  
2 Civil Procedure Rule 59(e) (motion to alter or amend a judgment) or Rule 60(b)  
3 (relief from judgment). *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5  
4 F.3d 1255, 1262 (9th Cir. 1993). “A district court may properly reconsider its  
5 decision if it ‘(1) is presented with newly discovered evidence, (2) committed clear  
6 error or the initial decision was manifestly unjust, or (3) if there is an intervening  
7 change in controlling law.’” *Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d 950, 955  
8 (9th Cir. 2013) (quoting *School Dist. No. 1J*, 5 F.3d at 1263). “There may also be  
9 other, highly unusual, circumstances warranting reconsideration.” *School Dist. No.*  
10 *1J*, 5 F.3d at 1263.

11 In its Order to Show Cause, filed on February 4, 2025, the Court found that,  
12 according to the records of the United States District Court for the Western District  
13 of Washington, Plaintiff is no longer eligible to proceed *in forma pauperis* under  
14 28 U.S.C § 1915(g).<sup>1</sup> ECF No. 6 at 1-2; *see O’Neal v. Price*, 531 F.3d 1146, 1153  
15 (9th Cir. 2008); *see also Andrews v. King*, 398 F.3d 1113, 1116 n. 1 (9th Cir. 2005)  
16 (noting the “three strikes” terminology). Under this provision, *in forma pauperis*  
17 status is unavailable to prisoners who have “on 3 or more prior occasions, while

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19 <sup>1</sup> *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1051 n.3 (9th Cir. 2005)  
20 (“Materials from a proceeding in another tribunal are appropriate for judicial  
21 notice.”) (internal quotation marks and citation omitted).

1 incarcerated or detained in any facility, brought an action or appeal in a court of  
2 the United States that was dismissed on the grounds that it is frivolous, malicious,  
3 or fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(g).

4 In its Order Denying Leave to Proceed *In Forma Pauperis* and Dismissing  
5 Action, the Court found that Plaintiff failed to overcome the preclusive effects of  
6 28 U.S.C. § 1915(g), and that because Plaintiff did not avail himself of the  
7 opportunity to pay the \$405 filing fee, he was unable to proceed with this action.  
8 ECF No. 7 at 1-2.

9 Plaintiff’s construed Motion for Reconsideration is difficult to decipher.  
10 However, he does not appear to present any newly discovered evidence,  
11 demonstrate that the Court committed clear error, or show that the Order  
12 dismissing this action was manifestly unjust. *See* ECF Nos. 9, 9-1, 9-2, 9-3. There  
13 has also been no intervening change in controlling law, and Plaintiff pleads no  
14 other circumstances warranting reconsideration. *Id.* Accordingly, Plaintiff’s  
15 construed Motion for Reconsideration, ECF No. 9, is denied.

16 Plaintiff makes some statements in his construed Motion that appear to  
17 overlap with assertions he made in another case filed before this Court, 2:25-CV-  
18 32-MKD. If Plaintiff intended to file the construed Motion for Reconsideration in  
19 Case No. 25-CV-32-MKD, he must clearly indicate his intent, clearly state the case  
20 number, and re-submit the document for filing in that case.

1 Accordingly, **IT IS ORDERED:**

2 1. Plaintiff's construed Motion for Reconsideration, **ECF No. 9**, is  
3 **DENIED.**

4 2. The file shall **REMAIN** closed. The Court shall entertain no further  
5 documents in this case, other than a notice of appeal of the Court's ruling regarding  
6 the construed Motion for Consideration, and the Clerk of Court shall note no  
7 further motions or petitions for hearing in this case.

8 3. The Court certifies that any appeal of this dismissal would not be  
9 taken in good faith.

10 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order  
11 and provide a copy to Plaintiff.

12 DATED April 3, 2025.

13 *s/Mary K. Dimke*  
14 MARY K. DIMKE  
15 UNITED STATES DISTRICT JUDGE  
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